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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,834	09/13/2006	Ryuichi Takei	SAIT.4628-NY	1988
5409 7590 09/17/2008 SCHMEISER, OLSEN & WATTS 22 CENTURY HILL DRIVE SUITE 302 LATHAM, NY 12110			EXAMINER ELBIN, JESSE A	
			ART UNIT 2615	PAPER NUMBER
			MAIL DATE 09/17/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,834	Applicant(s) TAKEI ET AL.	
	Examiner JESSE A. ELBIN	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 7 is/are rejected.
- 7) ☒ Claim(s) 3-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “a bone conduction microphone 4” in paragraph [0010].
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: paragraph [0010] describes both “a bone conduction microphone 4” and “a strap 4”. The figures only appear to indicate “a strap 4” with no indication of “a bone conduction microphone”.
Appropriate correction is required.

Claim Objections

4. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitation "said talking device functions to link said wireless circuit to said cell phone" is explicitly states in claim 1 as "A talking device...connecting to a cell phone by wireless through said wireless circuit". Therefore, the scope of claim 7 does not further narrow, or alter the scope of claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaakkola (WO 03/084192 ('192)) in view of Takeda (US Patent 6,957,049 ('049)).

Regarding claim 1, Jaakkola teaches a talking device (personal telecommunication device; '192 title), which is provided with a speaker (transducer; '192 Fig. 4-7 #412), a microphone ('192 Figs. 4-7 #413) and a wireless circuit (short distance transceiver block; '192 Fig. 4-6 #331 *wherein* "short distance transceiver block 331 has...a wireless communication interface"; '192 page 15 lines 30-31) and capable of: fitting to its user's body (worn on the torso of a user; '192 page 4 lines 36-38).

Jaakkola does not explicitly teach the device connecting to a cell phone by wireless through said wireless circuit. Jaakkola also does not explicitly teach the speaker being a bone conduction speaker, nor the microphone being an air conduction microphone.

Jaakkola does teach a radio transceiver coupled to a main processor for arranging bidirectional radio communication between the device and a digital cellular radio network. Jaakkola also teaches the amulets can be used as an accessory to otherwise complete mobile telephones using Bluetooth® for the benefit of allowing the user to modularly add the device to an existing cell phone.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the talking device as taught by Jaakkola by using Bluetooth®

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technology to connect it to a complete mobile telephone for the benefit of allowing a user to modularly add the device to an existing cell phone.

In the same field of endeavor, Takeda teaches a mobile communication unit with a bone conduction speaker ('049 Fig. 1 #1) and an air conduction microphone ('049 Fig. 1 #3 and "microphone portion 3...being disposed adjacent to the user's mount...to sufficiently catch the user's voice sound"; '049 col. 3 lines 18-23) for the benefit of allowing a user to listen sufficiently in a noisy place ('049 abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the speaker as taught by Jaakkola by making it bone conducting as taught by Takeda for the benefit of allowing a user to listen sufficiently in a noisy place.

Regarding claim 2, Jaakkola and Takeda remain as applied above.

Jaakkola further teaches both said speaker ('192 Fig. 4b #412) and said wireless circuit ('192 Fig. 4b #331) are packed in a head portion of an ornamental pendant ('192 Fig. 4 #401).

Regarding claim 7, Jaakkola and Takeda remain as applied above.

See rejection of claim 1, where Jaakkola makes obvious the connection between the wireless circuit and a cell phone.

Allowable Subject Matter

8. Claims 3-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Miltimore (US Patent 466,725) teaches a telephone for personal wear, disguised as a badge or fashion accessory.
- b. Okiebisu (US Patent 6,707,924) teaches a holder for portable electronic equipment.
- c. Chang et al. (US PGPub 2004/0096079) teaches a fastening device for an earphone.
- d. Whelen (US PGPub 2006/0088178) teaches a helmet with an optional microphone contained within a connecting buckle of the chin strap.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSE A. ELBIN whose telephone number is (571)270-3710. The examiner can normally be reached on Monday through Friday, 8:00am to 5:00pm EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Suhan Ni can be reached on (571) 272-7505. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A. E./
Examiner, Art Unit 2615

/Suhan Ni/
Primary Examiner, Art Unit 2614